

businessman may engage in them primarily for the additional revenue. Some such foreign activities may be conducted in a more elaborate manner, as where the enterprise operates a bus stop or a post office substation as an adjunct to a principal business such as a hotel or a retail store. Where in such a case the activities are performed in a physically separate "establishment" (see §§ 779.303-779.308) from the other business activities of the enterprise and are functionally operated as a separate business, separately controlled, with separate employees, separate records, and a distinct business objective of its own, they may constitute a separate enterprise. Where, however, such activities are intermingled with the other activities of the enterprise and have a reasonable connection to the same business purpose they will be a part of the enterprise.

§ 779.211 Status of activities which are not "related."

Activities which are not related even if performed by the same employer are not included as a part of the enterprise. The receipts from the unrelated activities will not be counted toward the annual dollar volume of sales or business under section 3(s) and the employees performing such unrelated activities will not be covered merely because they work for the same employer. Common ownership standing alone does not bring unrelated activities within the scope of the same enterprise. If, for example, one individual owns or controls a bank, a filing station, and a factory, the mere fact of common ownership will not make them one enterprise. However, if it appears that there is a reasonable relationship of all the activities to a single business purpose a different conclusion might be warranted. Activities which are not "related" will be treated separately for purposes of the tests contained in section 3(s)(1) through (5) of the prior Act and section 3(s)(1) through (4) of the amended Act. For example, in the case where a single company operates retail grocery stores and also engages in an unrelated business of constructing homes, one "enterprise" for purposes of section 3(s)(1) of both the prior and the amended Act will consist of the retail

grocery stores and any activities related to them, and home construction activities will constitute a separate enterprise. The latter will not be included in determining whether the retail business enterprise meets the conditions of section 3(s)(1), and the construction employees will not be covered merely because the retail business is covered. The construction business will be considered separately under section 3(s)(4) of the prior Act and section 3(s)(3) of the amended Act.

COMMON BUSINESS PURPOSE

§ 779.212 Enterprise must consist of related activities performed for a "common business purpose."

The related activities described in section 3(r) as included in the statutory enterprise are those performed for a "common business purpose." (See the comprehensive discussion in 29 CFR part 776.) The term "common business purpose" as used in the definition does not have a narrow concept and is not intended to be limited to a single business establishment or a single type of business. As pointed out above, retailing, wholesaling and manufacturing may, under certain circumstances be engaged in for a "common business purpose." (See § 779.209.) An example was also cited where retailing and construction were performed for a common business purpose. (See § 779.206.) On the other hand, it is clear that even a single individual or corporation may perform activities for different business purposes. (See § 779.211.) Thus the reports of the House of Representatives cite, as an example of this, the case of a single company which owns several retail apparel stores and is also engaged in the lumbering business. It concludes that these activities are not part of a single enterprise. (H. Rept. 75, 87th Cong., 1st Sess., p. 7 and H. Rept. 1366, 89th Cong. 2d Sess., p. 9.)

§ 779.213 What is a common business purpose.

Generally, the term "common business purpose" will encompass activities whether performed by one person or by more than one person, or corporation, or other business organization, which are directed to the same business objective or to similar objectives in